

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:12-cv-00103

FILED
ASHEVILLE, NC

JAN 31 2013

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

PROVIDENT LIFE AND
ACCIDENT INSURANCE
COMPANY,

Plaintiff,

v.

LISA MATTISON EMRALINO,
LISA TAVAR,
TIJUANA WHITTED SPENCER,
TAWARNA WHEAY,
LOREE M. CHRISTIAN and the
ESTATE OF ISAAC C. BAILEY,

Defendants.

CONSENT JUDGMENT

This action is an interpleader filed by Provident Life and Accident Insurance Company ("Provident") to determine entitlement to benefits due under a life insurance policy issued by Provident, insuring the life of the late Isaac C. Bailey ("Mr. Bailey"). The Defendants are Lisa Mattison Emralino, Lisa Tavar, Tijuana Whitted Spencer, Tawarna Wheay, Loree M. Christian and the Estate of Mr. Bailey. Mr. Bailey named as beneficiaries "Lisa Tavar" and "Tawarna Wheay," whom he described as his "children." Provident has been unable to locate anyone connected with Mr. Bailey named Lisa Tavar or Tawarna Wheay. Provident arranged for service by publication on any such individuals, and there has been no response. Ms. Christian sought benefits under the policy, but has not responded to this suit and default was entered against her by the Clerk

on November 6, 2012. Ms. Spencer and Ms. Emralino, through counsel, assert that they are the individuals Mr. Bailey intended to name as beneficiaries. Counsel have informed the Court that Ms. Emralino is the daughter of Ms. Christian, who, while not a blood relative, was raised with Mr. Bailey, that Ms. Christian was previously married to a Mr. Tabor (which explains the name Lisa Tavar), and that Ms. Spencer is the daughter of a friend of Mr. Bailey. Cathie St. John-Ritzen, the Buncombe County Public Administrator, has been appointed as personal representative of Mr. Bailey's Estate, and was served on November 13, 2012. Prior to the date that the Estate's Answer was due, Plaintiff, Ms. Emralino and Ms. Spencer, through counsel, and Ms. St. John-Ritzen, on behalf of the Estate, reached an agreement as to all matters at issue.

Pursuant to their agreement, Provident, with the consent of the Estate and counsel for Ms. Emralino and Ms. Spencer, has moved the Court to enter this Consent Judgment, to resolve all claims relating to the policy.

Pursuant to the consents hereon, it is ordered, adjudged and decreed:

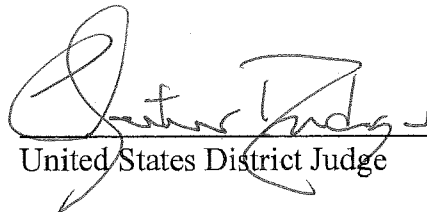
1. Default judgment is hereby entered against Defendant Loree M. Christian.
2. The Clerk shall pay Provident the sum of \$686.00, for its costs for filing (\$350.00) and service by publication (\$336.00) in this action, and shall pay the Public Administrator of Buncombe County, as Administrator of the Estate of Isaac C. Bailey, the sum of \$1,100.00, for fees and expenses incurred on behalf of the Estate in this matter.
3. The remaining funds on deposit shall be paid in equal shares to Tijuana Whitted Spencer and to Lisa Mattison Emralino, by checks to be mailed to them in care

of their attorney, William T. Biggers, Biggers & Associates, PLLC, 79 Woodfin Place, Suite 211, Asheville, North Carolina 28801.

4. Provident's payment to the Clerk of policy proceeds, totaling \$21,585.97, fully discharges Provident's obligations under its policy no. 0340528030, insuring the life of Mr. Bailey.

5. This action is dismissed with prejudice, with each party to bear its/her own fees and costs, except as otherwise provided herein.

This 31 day of January, 2013.


United States District Judge

WE CONSENT:

/s/ George K. Evans, Jr.
Attorney for Plaintiff Provident Life
and Accident Insurance Company

/s/ William T. Biggers
Attorney for Lisa Mattison Emralino
and Tijuana Whitted Spencer

/s/ Cathie St. John-Ritzen
Public Administrator of Buncombe County
Administrator of the Estate of Isaac C. Bailey